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ONE HUNDRED NINTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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June 30, 2006

The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Sensenbrenner:

The United States Supreme Court has ruled 5-3 in *Hamdan v. Rumsfeld* that the President did not have the authority to set up the "military commissions" in Guantanamo and that they are invalid. The Court found that the military commissions were not expressly authorized by any congressional act and that "the Executive is bound to comply with the Rule of Law that prevails in this jurisdiction."

For several years now, we have requested hearings on Guantanamo and legislation that would establish standards of due process for detainees. The Supreme Court has now called on Congress to act in this area.

In the last several years, former Bush Administration Justice Department officials have also suggested the need to reevaluate the Administration's system of detaining individuals without oversight. Viet Dinh, former Assistant Attorney General for the Office of Legal Policy, called "unsustainable" the government's insistence on detentions without meaningful oversight or due process. Michael Chertoff, former head of the Justice Department's Criminal Division, wrote a few years ago that policymakers "may need to think more systematically and universally about the issue of combatants" and "debate a long-term and sustainable architecture for the process of determining when, why, and for how long someone may be detained...and what judicial review should be available."

The Supreme Court decision in *Hamdan* specifically found that the existing military commissions in Guantanamo do not meet the requirements of the Uniform Code of Military

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Justice (UCMJ). Legislation establishing standards of due process for the tribunals in Guantanamo based on the UCMJ was referred to the Judiciary Committee over a year ago and is still pending action.

Justice Breyer, in a concurring opinion, pointed out that "Congress has not issued the Executive a 'blank check'" and that "nothing prevents the President from returning to Congress to seek the authority he believes necessary." We believe that we must heed this invitation for congressional action and act to establish clear standards and procedures to deal with terrorist detainees. Accordingly, we respectfully request that you schedule a hearing on these issues and legislative proposals as soon as possible.

Sincerely,

Jim Campen

Zoe Lofgren

Bill Delahunt

Buz Sawyer

Jeannette Nodder

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